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4. Prosecution of Civil Action

1. Basic Rule

Rules of Court, Rule 111

Institution of criminal and civil actions. –

(a) When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

The reservation of the right to institute separately the civil action shall be made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.

When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate, or exemplary damages without specifying the amount thereof in the complaint or information, the filing fees therefore shall constitute a first lien on the judgment awarding such damages.

Where the amount of damages, other than actual, is specified in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court.

Except as otherwise provided in these Rules, no filing fees shall be required for actual damages.

No counterclaim, cross-claim or third-party complaint may be filed by the accused in the criminal case, but any cause of action which could have been the subject thereof may be litigated in a separate civil action.

(b) The criminal action for violation of Batas Pambansa Blg. 22 shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed.

Upon filing of the aforesaid joint criminal and civil actions, the offended party shall pay in full the filing fees based on the amount of the check involved, which shall be considered as the actual damages claimed. Where the complaint or information also seeks to recover liquidated, moral, nominal, temperate or exemplary damages, the offended party shall pay additional filing fees based on the amounts alleged therein. If the amounts are not so alleged but any of these damages are subsequently awarded by the court, the filing fees based on the amount awarded shall constitute a first lien on the judgment.

Where the civil action has been filed separately and trial thereof has not yet commenced, it may be consolidated with the criminal action upon application with the court trying the latter case. If the application is granted, the trial of both actions shall proceed in accordance with in section 2 of this Rule governing consolidation of the civil and criminal actions.

The 2000 Rules on Criminal Procedure deems as instituted with the criminal action only the civil liability arising from the offense charged. The civil liability is deemed instituted – not merely 'impliedly' instituted – with the institution of the criminal action. The independent civil actions under Articles 32, 333, 34 and 2176 of the Civil Code are no longer deemed or impliedly instituted with the criminal action or considered as waived even if there is no reservation. The reservation applies only to the civil liability arising from the offense charged. The employer may no longer be held civilly liable for quasi-delict in the criminal action as ruled in *Maniago v. Court of Appeals*,⁹⁹ *San Ildefonso Lines, Inc. v. Court of Appeals*¹⁰⁰ and all other similar cases, since quasi-delict is not deemed instituted with the criminal. If at all, the only civil liability of the employer in the criminal action would be his/her subsidiary liability under the Revised Penal Code. The rule has also done away with third party complaints and counterclaims in criminal actions. Third-party complaints and counterclaims in criminal actions have to be ventilated in a separate civil action.

2. Civil Actions Not Based on Crime Not Extinguished

Acquittal in a criminal action bars the civil action arising therefrom where the judgment of acquittal holds that the accused did not commit the criminal acts imputed to him.¹⁰¹

The civil liability that is deemed extinguished is the civil liability based on crime. But not the civil liability based on sources of obligation other than the criminal offense although arising from the same act or omission. Article 29 of the Civil Code expressly provides that when the accused in a criminal prosecution is acquitted on the ground that his/her guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence.

The civil liability therefor under Articles 32, 33 34 and 2176 of the Civil Code or those where the source of civil obligation is not based on the criminal offense is not affected by the result of the criminal action.

In other words, the extinction of the civil liability referred to in par. (e) of Section 3, Rule 111, (1964 Rules) refers exclusively to the civil liability founded on Article 100 of the Revised Penal Code whereas the civil liability for the same act considered as a quasi-delict only and not as a crime is not extinguished even by a declaration in the criminal case that the criminal act charged has not happened or has not been committed by the accused. Briefly stated, culpa aquiliana includes voluntary and negligent acts which may be punishable by law. It results, therefore, that the acquittal of Reginald Hill in the criminal case has not extinguished his/her liability for quasi-delict, hence that acquittal is not a bar to the instant action against him.¹⁰²

The only civil liability that may thus be imposed in a criminal action is that arising from and consequent to the criminal liability of the accused on the principle that every person criminally liable is also civilly liable.¹⁰³ This includes restitution, reparation of damages caused and indemnification of consequential damages.¹⁰⁴ Complementary thereto, are the subsidiary civil liability of innkeepers, tavern keepers and proprietor of establishments,¹⁰⁵ employers, teachers, persons and corporations engaged in any kind of industry, for felonies committed by their servants, pupils, workmen, apprentices, employees in the discharge of their duties.¹⁰⁶

3. Criminal Actions To Recover Civil Liability Arising From Delict and Civil Actions Based on Quasi-Delict May Proceed Simultaneously

A separate civil action for damages lies against the offender in a criminal act, whether or not he is criminally prosecuted and found guilty or acquitted, provided that the offended party is not allowed, if he is actually charged also criminally, to recover damages on both sides, and would be entitled in such eventuality only to the bigger award of the two, assuming the awards made in the two cases vary.¹⁰⁷

4. Extinction Of The Penal Does Not Carry With It Extinction Of The Civil

But while every person criminally liable is also civilly liable, the converse is not true. Extinction of the penal does not carry with it extinction of the civil unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist.¹⁰⁸ Similarly, a final judgment rendered in a civil action absolving the defendant from the civil liability is no bar to a criminal action¹⁰⁹ unless the civil action is a prejudicial question which involves an issue similar or intimately related to the issue raised in the criminal, the resolution of which determines whether or not the criminal action may proceed.¹¹⁰

99 G.R. No. 104392, February 20, 1996, 253 SCRA 674.

100 G.R. No. 119771, April 24, 1998, 289 SCRA 568.

101 Western Institute of Technology v. Salas, G. R. No. 113032, August 21, 1997, 278 SCRA 216.

102 Elcano v. Hill, No. L-24803, May 26, 1977, 77 SCRA 98.

103 Revised Penal Code, Art. 100.

104 Ibid, Art. 104.

105 Ibid, Art. 102.

106 Ibid, Art. 103.

107 Elcano v. Hill, supra, note 102; Jarantilla v. Court of Appeals, G. R. No. 80194, March 21, 1989, 171 SCRA 429; Ace Haulers Corporation v. Court of Appeals, G. R. No. 127934, August 23, 2000.

108 Rules of Court, Rule 111, Sec. 2(b).

109 Ibid, Sec. 5.

110 Ibid, Secs. 6 and 7.

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